

**Filed 3/5/03 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

---

2003 ND 28

---

Randy S. Jensen, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

---

Nos. 20020146-20020148

---

Appeal from the District Court of Grand Forks County, Northeast Central Judicial District, the Honorable Debbie Gordon Kleven, Judge.

AFFIRMED.

Per Curiam.

Randy S. Jensen, pro se, North Dakota State Penitentiary, P.O. Box 5521, Bismarck, N.D. 58506-5521, for petitioner and appellant; submitted on brief.

David Thomas Jones, Assistant State's Attorney, and Kimberly Radermacher, third-year law student, P.O. Box 5607, Grand Forks, N.D. 58206-5607, for respondent and appellee; submitted on brief.

**Jensen v. State**  
**Nos. 20020146-20020148**

**Per Curiam.**

[¶1] Randy Scott Jensen appealed an order summarily denying his amended application for post-conviction relief.

[¶2] Jensen was convicted of Driving Under Revocation, Driving Under the Influence, and False Report to Law Enforcement. In an appeal from those convictions, Jensen asserted: (1) the charge relating to Driving Under the Influence should have been dismissed before trial because he did not waive a preliminary hearing; (2) the trial court erred in admitting Jensen's driving abstract into evidence; and (3) there was insufficient evidence to support his conviction of Driving Under the Influence. This Court affirmed in State v. Jensen, 2001 ND 117, 636 N.W.2d 674.

[¶3] Jensen was convicted of Failure to Appear After Release-Bail Jumping. He appealed, contending the trial court erred in not granting his N.D.R.Crim.P. 29 motion for acquittal based on insufficiency of the evidence to prove he had the intent not to appear for arraignment due to insufficient evidence he had notice of the time and place set for his arraignment. This Court affirmed the judgment in State v. Jensen, 2001 ND 159, 639 N.W.2d 706.

[¶4] Jensen applied for post-conviction relief on January 17, 2002. The trial court dismissed Jensen's amended application because it lacked specificity and the issue of prosecutorial misconduct had already been addressed on appeal. Jensen appealed, asserting (1) prosecutorial misconduct in presenting false testimony and alteration of court documents, (2) ineffective assistance of counsel, (3) violation of his due process rights under the United States Constitution, (4) improper charge and conviction of failing to appear for a hearing, (5) denial of court-appointed counsel, and (6) illegal extradition. This Court affirmed in Jensen v. State, 2002 ND 184, 655 N.W.2d 84.

[¶5] On March 1, 2002, Jensen moved for post-conviction relief, which the trial court denied. On May 6, 2002, Jensen filed an amended application for post-conviction relief. The trial court denied the application on May 28, 2002, for failure "to raise any allegations other than those previously decided," or which, "if not already decided by the North Dakota Supreme Court, could have been raised in his appeal." Jensen appealed, raising issues about: (1) the statute of limitations; (2) lack of an initial appearance; (3) improper joinder of charges; (4) instructing the jury that

the charge of driving under the influence was a class C felony; (5) insufficiency of the evidence to support the conviction of making a false report; (6) untimely filing of an information in connection with an allegedly forged waiver of a preliminary hearing; (7) evidence and jury instruction about Jensen's refusal to consent to a chemical test to determine the alcohol content of his blood; (8) prosecutorial misconduct; (9) denial of counsel for a pretrial hearing on October 3, 2000; (10) ineffective assistance of trial and direct appeal attorneys; and (11) denial of appointed counsel for post-conviction proceedings and the appeal from the denial of his application for post-conviction relief.

[¶6] We affirm the judgment under N.D.R.App.P. 35.1(a)(6).

[¶7] Gerald W. VandeWalle, C.J.  
Carol Ronning Kapsner  
Mary Muehlen Maring  
William A. Neumann  
Dale V. Sandstrom